Regulatory Analysis

Notice of Intended Action to be published: 653—Chapter 22
"Mandatory Reporting"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A, 147, 148 and 272C

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 17A, 147, 148 and 272C

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 5, 2024 9 a.m.	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Des Moines, Iowa 50321
Email: emily.deronde@dia.iowa.gov

Purpose and Summary

This proposed rulemaking provides guidance for reporting certain instances that are required by statute. Physicians are required to report judgments, settlements, out-of-state discipline, wrongful acts or omissions by another licensee, child abuse, and hospital discipline to the Board of Medicine within a specified period of time.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

There are no costs to the public to comply with this rulemaking. Licensees do not have any costs associated with reporting these items to the Board.

The cost to the Board is minimal since the staff utilized share other duties for implementation of Board rules. Staff provide administrative support to the Board for the decisions the Board is authorized to make pursuant to the Iowa Code, investigate complaints, and assist with disciplinary action when needed. Staff salaries to support the work of the Board are covered by the Licensing and Regulation Fund established in 2023 Iowa Acts, Senate File 557.

- Classes of persons that will benefit from the proposed rulemaking:

The public, licensees, and employers benefit from this rulemaking because the rules ensure licensees are reporting the information required by statute. With the reporting requirements, the Board is able to ensure public safety and assess issues that might not be filed as a complaint.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The cost to the Board is minimal since the staff utilized share other duties for implementation of Board rules. Licensees do not have any costs associated with reporting these items to the Board.

- Qualitative description of impact:

This rulemaking ensures public safety by requiring licensees to report certain information to the Board, such as acts or omissions in violation of Board rules, loss of privileges to practice, and discipline from another jurisdiction. Without the reporting requirements, the Board may not be informed of incidents that require investigation and discipline.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

The cost to the Board is minimal since the staff utilized share other duties for implementation of Board rules. Staff provide administrative support to the Board for the decisions the Board is authorized to make pursuant to the Iowa Code, investigate complaints, and assist with disciplinary action when needed. Staff salaries to support the work of the Board are covered by the fund.

- Anticipated effect on state revenues:

This rulemaking has no anticipated impact on state revenues. Staff salaries to support the work of the Board are covered by the fund. Licensing fees go to the fund to cover the operations of the regulated professional licensing boards.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The cost to the Board is minimal since the staff utilized share other duties for implementation of Board rules. Without the reporting requirements, the Board may not be informed of incidents that require investigation and discipline.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Board has not identified a more cost-effective alternative to the mandatory reporting requirements. Iowa Code chapter 272C requires the Board to ensure mandatory reporting of these items.

Due to the state government alignment, this Board is now part of the Department. The Department's Licensing Division continues to assess and implement opportunities to increase efficiencies and standardize board processes across all professional licensing boards. The updates to this chapter support this effort.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Board has not identified a more cost-effective alternative to the mandatory reporting requirements. Iowa Code chapter 272C requires the Board to ensure mandatory reporting of these items.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The Board has not identified a more cost-effective alternative to the mandatory reporting requirements. Iowa Code chapter 272C requires the Board to ensure mandatory reporting of these items.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed chapter relates to high-stakes public safety concerns that are present whether the business is a small business or a large organization. The chapter is meant to ensure public safety in terms of licensing requirements for physicians. While some physicians likely are running a small business of their own, some also work for large corporations and hospitals. To exempt small businesses from adhering to this chapter would jeopardize any member of the public who sought services from that small business. The risk to the public is greater than the potential harm or cost to the small business. Additionally, if a licensee subject to this chapter is a small business and has identified a rule that is overly burdensome and the goals of which could be achieved in a manner that would reduce the impact on the small business, the licensee could utilize the Department's established waiver process.

Text of Proposed Rulemaking

ITEM 1. Rescind 653—Chapter 22 and adopt the following **new** chapter in lieu thereof:

CHAPTER 22
MANDATORY REPORTING

653—22.1(272C) Mandatory reporting—judgments or settlements. Each licensee, including inactive licensees, will report to the board and provide a copy of every adverse judgment and settlement of a claim against the licensee in a malpractice action within 30 days from the date of said judgment or settlement. Failure to report judgments or settlements within the 30-day period is a basis for disciplinary action.

653—22.2(272C) Mandatory reporting—wrongful acts or omissions.

22.2(1) *Definitions.* For the purposes of this rule, the following definitions apply:

"Knowledge" means any information or evidence of reportable conduct acquired by personal observation, from a reliable or authoritative source, or under circumstances causing the licensee to believe that wrongful acts or omissions may have occurred.

"Reportable conduct" means wrongful acts or omissions that are grounds for license revocation or suspension under these rules or that otherwise constitute negligence, careless acts or omissions that demonstrate a licensee's inability to practice medicine competently, safely, or within the bounds of medical ethics, pursuant to Iowa Code sections 272C.3(2) and 272C.4(6) and 653—Chapter 23.

22.2(2) *Reporting requirement.* A report shall be filed with the board, within 30 days from the date the licensee acquires knowledge, when a licensee has knowledge that another person licensed by the board may have engaged in reportable conduct. Failure to report is a basis for disciplinary action.

a. The report must contain the name and address of the licensee who may have engaged in the reportable conduct; the date, time, place, and circumstances in which the conduct occurred; and a statement explaining how knowledge of the reportable conduct was acquired.

b. The board makes the final determination of whether or not wrongful acts or omissions have occurred.

c. A physician is not required to report confidential communication obtained from a physician in the course of and as a result of a physician-patient relationship or when a state or federal statute prohibits such disclosure.

d. A licensee will not be civilly liable for filing a report with the board so long as such report is not made with malice.

653—22.3(272C) Mandatory reporting—disciplinary action in another jurisdiction. Each licensee, including inactive licensees, will report to the board, within 30 days of the action, every license revocation, suspension or other disciplinary action taken against the licensee by a professional licensing authority of another state; an agency of the United States government; or any country, territory or other jurisdiction. Failure to report in accordance with this rule is a basis for disciplinary action.

653—22.4(272C) Mandatory reporting—child abuse and dependent adult abuse. Each licensee will report child abuse and dependent adult abuse as required by state and federal law. Knowingly and willfully failing to report child abuse and dependent adult abuse is a basis for disciplinary action.

653—22.5(272C) Mandatory reporting—hospital disciplinary action. Each licensee, including inactive licensees, will file with the board a copy of the disciplinary action or voluntary action and a written report describing any disciplinary action taken by a hospital for reasons relating to the physician's professional competence or conduct that results in a limitation, restriction, suspension, revocation, relinquishment or nonrenewal of the licensee's hospital privileges or any voluntary limitation, restriction, suspension, revocation, relinquishment or nonrenewal of the licensee's hospital privileges to avoid an investigation or other hospital disciplinary action. A licensee is not required to report a limitation, restriction, suspension, revocation, relinquishment or nonrenewal of the licensee's privileges of fewer than 10 days. A licensee is not required to report a voluntary, nondisciplinary limitation or relinquishment of hospital privileges made at the election of the licensee to narrow or change the nature of the licensee's medical practice for reasons not related to competency or conduct. The written report must be filed with the board within 30 days of the date of the action. Failure to file the written report and a copy of the action is a basis for disciplinary action. Reports shall be maintained by the board in accordance with Iowa Code section 272C.6(4).

These rules are intended to implement Iowa Code chapters 17A, 147, 148, and 272C.